

Existing construction

New construction

Well Waiver, Existing Construction

Ref.: HUD HB 4905.1, page 2-2

24 CFR 200.926d (f)(3)

HUD Handbook 4910.1, Chg. 1, Appendix K, page K-22

The Homeownership Center (HOC) receives numerous requests to waive the distance from the well to various potential sources of pollution (e.g., septic tank, drainfield, etc.) when such requests are not necessary.

For example, the handbook allows for a lesser distance from the well to the soil poisoned area (25 to 15 feet) and drainfield (100 to 50 feet) if there is an impervious strata of clay, hardpan or rock (HUD Handbook 4910.1, Chg. 1, Appendix K, page K-22). Effective immediately, the DE Underwriter may accept these lesser distances with the proper supporting documentation (evidence that the ground surface is effectively separated by an impervious strata, a professional drawing, and a 'clear' water test) that must be placed into the case binder. **IN THESE INSTANCES A REQUEST FOR WAIVER IS NOT REQUIRED.**

The following exhibits are acceptable:

- a. Evidence that the ground surface is effectively separated by an impervious strata may be supported by a well driller's log. Acceptable substitutes such as a subsurface evaluation letter from either the local Water Management District or Health Department or a letter from a qualified well installer provided they clearly show data which would otherwise have been revealed by the well driller's log may suffice. The underwriter must insure the well driller's log (or acceptable substitute) denotes an apparent impervious strata. **If this information is not available, the property is not eligible for HUD/FHA mortgage insurance.**
- b. The professional drawing must indicate the distance from the subject well to the septic tank, lot-line, drainfield and chemically poisoned soil on the subject site as well as **all adjacent, adjoining and contiguous sites**. If there are no improvements on the neighboring lots, the notation of "vacant" on the drawing is adequate.
- c. The water must be tested to insure the maximum allowable contamination levels for lead, nitrates, nitrites, total nitrate/nitrite, and fecal and total coliform are not exceeded (Mortgagee Letter 95-34) regardless of local stipulations unless they are more stringent. State and local test results that do not address all five contaminants are unacceptable. Furthermore, lenders must adhere to conditions mandated by state and local governments as they pertain to additional impurities,

The HOC will accept for review, on a case-by-case basis, waiver requests in which the distance from the well to the: 1) soil-poisoned area is less than 15 feet; 2) septic tank is less than 50 feet; 3) septic drainfield is less than 50 feet and; and 4) lot line is less than 10 feet **if these distances are acceptable to the local governing entity.**

In the above circumstances, if the DE underwriter determines that there is adequate justification to request a waiver of the minimum distance(s), he/she must forward a written request (**do not** FAX) indicating what is to be waived along with legible copies of the following exhibits to the HOC for review:

- Appraisal (minus the appraiser's certification pages) must show the availability and feasibility of connecting to public water and/or sewer.
- Evidence indicating the depth of the extensive, continuous impervious strata. (Not required for well to lot-line waiver **unless** the distance from the well to any potential source of pollution is less than the prescribed minimum distance(s) in the chart in appendix K, HUD Handbook 4910.1).
- Professional drawing with all notations as outlined in paragraph b. above.
- Clear water test as specified in ML 95-34 (Nitrite, nitrate, lead, fecal coliform and total coliform).
- Analyze sheet or evidence from the State that lab is approved to test for required parameters.
- Evidence from the health department of acceptance of the well in relation to the soil-poisoned area, septic tank and drainfield.
- Termite report (well to soil-poisoned area).
- A letter from the utility company acknowledging the well will not hinder their normal operations, if the well is located in an utility easement.

Copies of the HOC approval and supporting data must be placed in the case binder prior to submission for endorsement.

(Please also refer to Mortgagee Letter 2002-25 @ [http://www.hudclips.org/sub_nonhud/cgi/nph-brs.cgi?d=MLET&s1=02-\\$\[no\]&op1=AND&SECT1=TXTHLB&SECT5=MLET&u=./legis.cgi&p=1&r=3&f=G](http://www.hudclips.org/sub_nonhud/cgi/nph-brs.cgi?d=MLET&s1=02-$[no]&op1=AND&SECT1=TXTHLB&SECT5=MLET&u=./legis.cgi&p=1&r=3&f=G) , regarding Minimum Distance Requirements Between Private Wells and Sources of Pollution for Existing Properties.)

Well Waiver, New Construction

Ref.: 24 CFR 200.926d (f)(3)

HUD Handbook 4910.1, Chg. t, Appendix K, page K-22

In accordance with the Code of Federal Regulations (24 CFR 200.926d(f)(3)) distances from the well to potential sources of pollution for new construction properties may not be less than those prescribed in the table therein. Consequently, the HOC will not accept any requests for waiver. New construction

is defined as any single-family property that is proposed, under construction or existing less than one year.

However, the CFR and handbook do allow for a lesser distance for the soil poisoned area (25 to 15 feet) and drainfield (100 to 50 feet) if there is an impervious strata of clay, hardpan or rock (HUD Handbook 4910.1, Chg. 1, Appendix K, page K-22). Effective immediately, the DE Underwriter may accept these lesser distances with the proper supporting documentation (see below). In these instances no request for waiver is required.

To support the acceptance of the lesser distance(s) from the well to either the soil-poisoned area or the drainfield, per the above paragraphs, copies of the following supporting exhibits must be placed in the case binder prior to submission for endorsement:

- Evidence indicating the depth of the extensive, continuous impervious strata¹
- Professional drawing with all notations²
- Clear water test as specified in Mortgagee Letter 95-34
- Analyze sheet or evidence from the State that lab is approved to test for each of the required parameters
- If the well is located in a utility easement, a letter from the utility acknowledging the well will not hinder their normal operations
- Evidence from the county health department of acceptance of the well in relation to the soil poisoned area, septic tank and drainfield

If the above exhibits are not available, the property is not eligible for HUD/FHA mortgage insurance.

NOTES:

¹Evidence that the ground surface is effectively separated by an impervious strata may be supported by a well driller's log. Acceptable substitutes, such as a subsurface evaluation letter from either the local Water Management District or Health Department, or a letter from a qualified well installer may suffice provided they clearly show data which would otherwise have been revealed by the well driller's log. The underwriter must insure the well driller's log (or acceptable substitute) denotes apparent impervious strata.

²The professional drawing must indicate the distance from the subject well to the septic tank, lot-line, drainfield and chemically poisoned soil on the subject site as well as **all adjacent, adjoining and contiguous sites**. If there are no improvements on the neighboring lots, the notation of "vacant" on the drawing is adequate.

3The water must be tested to insure the maximum allowable contamination levels for lead, nitrates, nitrites, and fecal and total coliform are not exceeded (ML 95-34) regardless of local stipulations unless they are more stringent. State and local test results that do not address all five contaminants are unacceptable. Furthermore, lenders must adhere to conditions mandated by state and local governments as they pertain to additional impurities.